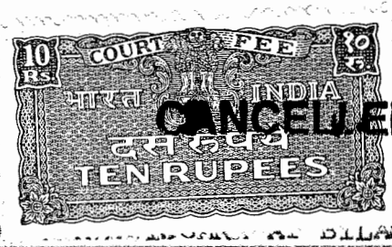
SINGLE BENCH



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(3)

IN THE HIGH COURT O[illegible] AT BILASPUR

WRIT PETITION NO. 3267 OF 2005

PETITIONER : Siddharth Singh, Son of Sri Narendra Narayan Singh, aged about 40 years, Occupation : Business, resident of Kedarpur, Ambikapur, District : Surguja (C.G)

No. 2771/05
Presented by Shri S.K. Dadsena
dated 21.6.05

VERSUS

RESPONDENT : State of Chhattisgarh through the Labour Inspector, Minimum Wages Act, Ambikapur, District : Surguja (C G).

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WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA

XI-HC-22

36

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... WP 3367/05 ..... **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	27.7.2005 Shri V.K. Pandey, counsel for the petitioner. Shri Yashwant Singh Thakur, Govt. Advocate for the State. This matter is being disposed of with the consent of counsel for the parties at the admission stage itself. The petitioner has questioned the legality, propriety and correctness of order dated 11.2.2005 passed by the Authority under Minimum Wages Act, Labour Court, Ambikapur in Case No.27/M.W. Act/ 2004 filed by the petitioner herein against the order dated 6.7.2004 passed in original case No.148/2003 M.W. Act. Brief facts leading to filing of this writ petition are that respondent herein filed a complaint against the petitioner for non-complaince of provisions of the Minimum Wages Act. When the matter was pending before the leanerd Labour Court, on 3.7.2004 counsel for the petitioner herein could not appear before the Court, therefore, the order for ex-parte proceedings was passed and on 6.7.2004 the matter was decided ex-parte. On coming to know this fact, on 9.7.2004 an application under Order 9 Rule 13 of the CPC was filed on behalf of the petitioner herein on the ground that counsel for the petitioner was busy in some other court, therefore, he could not appear before the Labour Court. However, learned Labour Judge vide impugned order rejected the application and observed that the ground taken by counsel for the petitioner that he was busy in some other court is a false excuse and he ought to have remain vigilant about the hearing.	

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XI-HC-22

(37)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 3267/05 **सन् 200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

There is no material before the labour court on record by which learned Labour Judge reached to the conclusion that counsel for the petitioner raised a false excuse, when the application for setting aside the exparte order was filed so promptly on 9.7.2004 i.e. within a period of three days from the date of order learned Labour Judge ought to have considered that application and at the most if the Labour Judge was of the opinion that counsel for the petitioner was negligent then in such cases the court was entitled to impose cost on the petitioner, but passing exparte order for such a lapse affects the rights of the petitioner. However, the order has been passed and the petitioner has not been allowed to contest the matter, therefore, the impugned order cannot be considered to be just and fair and in the circumstances, it is a fit case where the impugned order should be set aside.

In the result, the petition of the petitioner is allowed and impugned order is hereby quashed subject to payment of cost of Rs.100/- by the petitioner to the respondent. The petitioner is directed to appear before the Labour Court on 12th September, 2005 and the Labour Court should take up the matter from that stage and allow the petitioner to contest the application.

In view of above order, M.(W.)P. No. 2779/05 and I.A. No.6289/05 stand disposed of.

Certified copy as per rules.

Sd/-
L.C. Bhadoo
Judge

(पीछे देखिये)

Roshanlr
19.7.05